

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

A. STATUS OF THE CLAIMS

As a result of the present amendment, claims 13-19 and new claims 20-28 are presented in the case for continued examination.

Claims 1-12 are canceled without prejudice.

Claims 13-14 are amended to set forth what Applicants consider to be their invention. Supports can be found, for example, on page 10 lines 3-11, on page 12 lines 11-20, or from page 10 line 12 to page 11 line 4.

Claims 15-19 are amended to remove informalities or to conform to the US patent practice.

New claims 20-28 have been added to set forth what Applicants consider to be their invention. Support can be found, for example, throughout the application and the original claims in general. For example, support for claim 20 can be found on page 22, line 25 and page 24 line 7, support for claim 21 on page 6 lines 6-7, support for claim 22 on page 13 lines 17-25, support for claim 23 on page 13 lines 4-8, support for claim 24 from page 13 line 2 to page 14 line 4, support for claim 25 on page 14 lines 13-18, support for claim 26 in the original claim 7, support for claim 27 from page 14 line 19 to page 15 line 10 and support for claim 28 from page 15 line 18 to page 16 line 6.

No new matter has been added.

B. RESTRICTION REQUIREMENT

In response to the restriction requirement, Applicants elect to prosecute in this patent application Invention III, claims 13, 16 and 19, drawn to a method of culturing a photosynthetic organism. It is believed that claims 13, 15, 16, 19 and new claims 20-28 read on elected Invention III, as amended herein.

This response is made with traverse, and it is respectfully urged that non-elected Invention IV, claims 14 and 17-18, be examined together. The Inventions III and IV both share the common novel method of culturing a photosynthetic microorganism with a multi-layered

photobioreactor, where execution of vegetative cell growth (inside portion) and production of a useful metabolite (outside portion) at one photobioreactor at the same time. The first culture region to execute vegetative cell growth and a second culture region to produce a useful metabolite are equipped in a photobioreactor followed by irradiation light to the photobioreactor.

On page 3 of the Office Action, the Examiner indicated that the technical feature of the instant Inventions I-V is taught by US 6,571,735. Applicants respectfully disagree. US 6,571,735 does not teach that a useful metabolite is produced separately or vegetative cell growth and a useful metabolite production occur at the same time. In this regard, it seems that the technical feature of the instant invention is neither mentioned nor disclosed in US 6,571,735.

As such, the search directed to elected Invention III will significantly overlap a search strategy directed to non-elected Invention IV. Accordingly, Applicants respectfully urge that there would not be an undue burden upon the Examiner to search and consider claims 13, 15, 16, 19, and new claims 20-28 contained in elected Invention III, and claims 14 and 17-18 contained in non-elected Invention IV at the same time.

In addition, the Examiner has the discretion to prosecute all of the pending claims in a single patent application. In this regard, "[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (Emphasis added; Manual of Patent Examining Procedure, § 803, second paragraph).

Thus, for reasons of efficiency in prosecution and searching, it is urged that Inventions III and IV be examined together and the Examiner is respectfully requested to reconsider and withdraw the present Restriction Requirement.

C. REJOINDER

Applicants reserve the right to request rejoinder of all appropriate claims removed by the Examiner in the event that the traversal is not deemed persuasive.

D. FEES

This response is being filed within the shortened period for response. No fee is believed to be required. If, on the other hand, it is determined that any fees are due or any overpayment

has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

LUCAS & MERCANTI, LLP

A handwritten signature in black ink, appearing to read 'Yun H. Choe', written over a horizontal line.

Yun H. Choe

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